

State of California
AIR RESOURCES BOARD

Resolution 93-61

November 18, 1993

Agenda Item No.: 93-14-4

WHEREAS, Sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "Board") to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, Sections 87300-87302 of the Government Code authorize and require the Board to adopt a Conflict of Interest Code containing certain specified provisions;

WHEREAS, the Board has established a Conflict of Interest Code in Sections 95000-95007, Title 17, California Code of Regulations;

WHEREAS, the Board's Conflict of Interest Code ("Code") incorporates by reference the Standard Conflict of Interest Code established by the Fair Political Practices Commission (FPPC) in Section 18730, Title 2, California Code of Regulations, designates the Board and staff positions which involve the making or participation in the making of decisions which may foreseeably have a material effect on financial interests, and establishes disclosure categories which specify the kinds of financial interests that must be reported by the various designated employees;

WHEREAS, Section 87306 of the Government Code authorizes and requires the Board to conduct a biennial review of the Board's Code and to amend the Board's Code to reflect, among other changes, the creation of new positions which involve the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest; or the reclassification, renaming or deletion of previously designated positions;

WHEREAS, the Board staff has proposed amendments to Sections 95000, 95001, 95002, 95004, 95005, and 95007, Title 17, California Code of Regulations, to reflect the additions and deletions of positions designated under the Board's Code and to make minor grammatical and clarifying changes;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code; and

WHEREAS, the Board finds that:

The amendments to Sections 95000, 95001, 95002, 95004, 95005, and 95007, Title 17, California Code of Regulations, set forth in Attachment A, appropriately reflect additions and deletions to the designated positions of the Board's Code, and minor grammatical and clarifying changes; and

The amendments set forth in Attachment A meet the requirements of Sections 87300-87313 of the Government Code.

THEREFORE, BE IT RESOLVED that the Board hereby adopts amendments to Sections 95000, 95001, 95002, 95004, 95005, and 95007, Title 17, California Code of Regulations, as set forth in Attachment A hereto.

I hereby certify that the above is
a true and correct copy of
Resolution 93-61, as adopted by
the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary

**PROPOSED TEXT OF REGULATIONS
FOR CONFLICT OF INTEREST CODE**

Amend Sections 95000, 95001, 95002, 95004, 95005, 95006, and 95007,
Subchapter 9. Conflict of Interest Code, Chapter 1, Division 3, Title 17,
California Code of Regulations, as follows:

Article 1. General Provisions

95000. Incorporation by Reference of Standard Conflict of Interest Code. The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard Conflict of Interest Code which can be incorporated by reference into the Conflict of Interest Code of a state agency. The regulation may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated herein by reference and, along with the following Appendix in which officials and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the California Air Resources Board.

Pursuant to Section 4(A) of the Standard Code (2 Cal. Code of Regs. Section 18730 (g) (4) (A)), designated employees shall file statements of economic interest with the person designated to perform this function for the agency. Upon receipt of the statement of the Board Members and the Executive Officer of the Air Resources Board, said person shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Section 87300, 87301, 87302 and 87500, Government Code; Section 18730 of Title 2, California ~~Administrative~~ Code of Regulations.

Article 2. Appendix: Designated Employees and Disclosure Categories

95001. Professional Employees.

For purposes of the following disclosure categories persons at all levels of the following employment classifications are deemed to be professional employees:

- Air Pollution Research Specialists
- Air Pollution Specialists
- Air Resources Field Representatives

Auto Emissions Test Supervisors
Biostatisticians
Chemists
Data Processing Analysts
Data Processing Managers
Economists
Engineers
Government Program Analysts
Information Officers
Management Analysts
Meteorologists
Public Health Medical Officers
Research Analysts
Spectroscopists
Staff Analysts
Staff Services Managers
Statistical Methods Analysts
Telecommunications Systems Analysts
Toxicologists
Transportation Planners
Vehicle Pollution Advisors

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.

95002. Category I.

(a) Air Resources Board Members, the Advisors to the Board, members of the Scientific Review Panel on Toxic Air Contaminants, members of the Scientific Advisory Committee on Acid Deposition, members of the Research Screening Committee, Executive Officer, Deputy Executive Officers, Assistant Executive Officer, all Executive Office ~~§~~Special ~~0~~Office Chiefs, all Division Chiefs and Assistant Division Chiefs, all Administrative Law Judges, all ~~§~~Staff Attorneys, all professional employees and special consultants* attached to the Executive Office, Branch Chiefs of the Administrative Services Division, and the Training Section Manager, the Contracts Manager, Procurement Officers, and the Regional Administrative Officer of the Administrative Services Division.

* With respect to consultants, however, the Executive Officer may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon the description, a statement of the extent of disclosure requirements. Nothing herein excuses any consultant from any other provision of this Conflict of Interest Code. (This footnote applies to consultants in all disclosure categories, as indicated by the asterisks.)

A copy of the written determination shall be retained at the Offices of the Air Resources Board and made available for public inspection.

(b) Every person in this Category must report: all investments, all interests in real property, all sources of income, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management in any business entity.

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.

95003. Category II.

(a) Members of the Abrasive Blasting Committee and all professional employees in and special consultants* attached to the Stationary Source Division.

(b) Every person in this Category must report: all investments in, income from, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management,

(1) in any business entity which is subject to any laws of the State of California, or regulations promulgated by the Air Resources Board, relating to the control of air pollution from nonvehicular sources, or subject to any rules or regulations promulgated by any local air pollution control district;

(2) in any business entity of the type which has contracted with the board to provide services, supplies, materials, machinery, instrumentation, or equipment to the board;

(3) in any business entity, including a construction company, which is regularly engaged in the development of or investments in real property in California; and

(4) in any business entity which is regularly engaged in the preparation of environmental impact reports or environmental impact statements.

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.

95004. Category III.

(a) All professional employees in and special consultants* attached to the Research Division.

(b) Every person in this Category must report: all investments in, income from, and his or her status as director, officer, partner, trustee, employee, or holder of any position of management in.

(1) any business entity which is subject to any laws of the State related to the control of air pollution from vehicular or nonvehicular sources, or which is subject to any local air pollution control district; and

(2) any business entity or non-profit institution involved in activities relating to air pollution research, the development of air pollution control strategies or any activity which for the past two years has been the subject of a board research proposal, bid or contract.

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.

95005. Category IV.

(a) ~~Members of the Modeling Advisory Committee and~~ All professional employees in and special consultants* attached to the Compliance Division, the Technical Support Division, and the Monitoring and Laboratory Division.

(b) Every person in this Category must report: all investments in, income from, and his or her status as a director, officer, partner, trustee, employee, or holder of and position of management, in any business entity which is subject to any laws of the State of California relating to the control of air pollution from vehicular or nonvehicular sources, or which is subject to any rules or regulations promulgated either by the Air Resources Board or by any local air pollution control district.

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.

95006. Category V.

(a) All professional personnel in and special consultants* attached to the Mobile Source Division.

(b) Every person in this Category must report: all investments in, income from, and his or her status as a director, officer, partner, trustee, employee, or holder of any position of management,

(1) in any business entity associated with the manufacture, distribution, sale, leasing, repair, or (except for entities associated solely with the news media) the advertisement of motor vehicles, vehicular emission control devices or equipment, or vehicle aftermarket parts of vehicle fuels or fuel additives which may affect emissions; and

(2) in any business entity of the type of which has contracted within the previous two years with the ~~the~~ Board to provide services, supplies, materials, machinery, instrumentation, or equipment to the ~~the~~ Board.

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.

95007. Advisory Committees.

The Board finds that all members of advisory groups or committees appointed by the Board pursuant to Health and Safety Code Section 39603, perform a solely advisory function, and hence are not "designated employees" within the meaning of this Code, and are therefore exempt from the requirements of this Code.

Authority: Sections 39600 and 39601, Health and Safety Code; Sections 87300 and 87306, Government Code. Reference: Sections 82019 and 87302, Government Code.